

Remarks

Claims 1 and 3-13 are presently pending in this application. The Examiner has rejected the pending claims under 35 U.S.C. § 112, second paragraph, for allegedly failing to particularly point out and distinctly claim the invention. Applicant has amended claims 1, 3-7, and 10 to traverse this rejection. In claim 1, Applicant inserted --connected to said elevating device, designed-- and --such that the sound emanating surface is not in contact with the user when the body attachment assembly is attached to the body of a user, thereby--and deleted "above the user of the device and". The added language is functional and does not claim "the body of the user." Claims 3-5 were amended by deleting language referring to a "body limb." Claims 6 and 7 were amended by replacing "platform" with --elevating device--. Claim 7 was additionally amended to set forth an additional feature of the device by inserting --further comprising a receiving formation on said platform and wherein said hook is selectively engagable and disengagable with the receiving formation. Claim 10 was amended to clarify that the legs of the device support the device on a hunter rather than user. In view of these amendments, the rejections should be withdrawn.

The Examiner rejected claims 1-4 as anticipated by US Pat. No. 5,716,254 to Bowes. As the Examiner is aware, to anticipate a claim a reference must teach every element of the claim. The present invention requires the legs of the device to provide "an unencumbered path for the sound to escape the game call." The '254 patent discloses a scratcher plate with a sound chamber having a skirt 44 around the circumference of the sound chamber. See Figs 2 and 3. The skirt 44 is "urged against the surface of user's body." (column 4, lines 49-57). Because the skirt 44 is in contact with the user's body, there is no unencumbered path for the sounds to escape the game call. Moreover, Applicant respectfully disagrees that the skirt can

be considered a “leg” as presently claimed. The ordinary meaning of “leg” is a pole or bar serving as a support or prop. A skirt around the circumference of the device cannot reasonably be considered a pole or bar. Because the ‘254 patent does not teach all of the elements of claim 1, the ‘254 patent cannot anticipate the claim, and the rejection should be withdrawn.

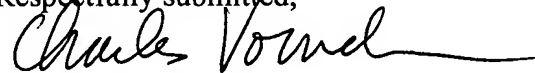
The Examiner rejected claims 5 and 11 under 35 U.S.C. § 103 as obvious in light of the ‘254 patent and Official Notice that game calls with rectangular platforms and legs are well known devices for calling game. As discussed above, the ‘254 patent does not teach or suggest all of the elements of the claims. In particular, the ‘254 patent does not teach a game call with legs that provide an unencumbered path for sounds to escape. Indeed, the ‘254 patent *teaches away* from such a device because the ‘254 patent discloses a device that has a funnel-shaped speaker 18 for directing sounds and increasing the volume of the call (column 5, lines 6-10). Thus, the sounds from the call disclosed in the ‘254 patent go through the funnel-shaped speaker and not through an unencumbered path as presently claimed. The ‘254 patent does not teach or suggest, directly or indirectly, using legs to provide an unencumbered path for sound to escape. Moreover, there is no motivation to combine the game call disclosed in the ‘254 patent with a platform because the skirt 44 of the ‘254 device is intended to be in contact with the user and the sounds made by the call are amplified through the funnel-shaped speaker 18. Using a platform with the ‘254 game call would prevent the skirt 44 from contacting the user and would hamper the generation of sounds through the funnel-shaped speaker 18. Because the ‘254 does not teach or suggest, directly or indirectly, all of the elements of the claims, it cannot render the claims obvious, and the rejections should be withdrawn. Moreover, there is no motivation or likelihood of success to combine the ‘254 game call with a platform because

such a combination would prevent the skirt 44 from contacting the user thereby preventing or hampering the game call from functioning.

Applicant has rewritten claim 6 as new claim 14 in independent form including the limitations of the base claim as well as amending the claim as described above. Dependent claims 15-17 were also added. Claim 12 was rewritten in independent form as new claim 18. Claim 13 was rewritten as new dependent claim 19. As noted by the Examiner, these amendments should put these claims in condition for allowance.

In light of the amendments to the claims and the remarks made herein, Applicant respectfully requests that the Examiner allow all of the pending claims. This paper is filed without fee; however, if the Examiner determines a fee is required, the Commissioner is authorized to charge any requisite fee to Deposit Account No. 20-1507.

Respectfully submitted,



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Kita Hall

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APPENDIX A

1. (amended) A hunting device for producing sound[s] comprising:

(a) a one-piece game call and elevating device, wherein [in the game call the] sound[s are] is produced, said game call having a scratch surface separated from a sound emanating surface, the sound[s] emanating surface having apertures through which the sound[s] in said game call escapes the game call; and

(b) a body attachment assembly, connected to said elevating device, designed to releasably attach the game call and elevating device to the body of a user of the hunting device;

the elevating device elevating the sound emanating surface of said game call such that the sound emanating surface is not in contact with a user [above the user of the device and] thereby providing an unencumbered path for the sound[s] to escape the game call and reach ambient.

3. (amended) A hunting device according to Claim 1, wherein said elevating device comprises legs each having a first end and a second end[;]

wherein said first ends of said legs are attached to said game call; and

wherein said second ends of said legs are designed to [in] contact [with] the body [limb] of [the] a user [by said body attachment device].

4. (amended) A hunting device according to Claim 1, wherein said elevating device comprises:

(a) a platform having a top surface and a bottom surface, said platform supporting said game call; and

(b) legs depending from said platform, each said leg having a first end and a second end, wherein said first end of each said leg is in contact with said platform; and

wherein said second end of each said leg is [in] designed to contact [with] the body [limb] of [the] a user [by said body attachment assembly].

5. (amended) A hunting device according to Claim 4, wherein said platform of the hunting device is substantially rectangular and includes front and rear legs extending from said bottom surface of said platform[;]

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wherein said body attachment assembly is encirclable about a limb of a user's body to releasably secure the hunting device against a body limb of the user; and

wherein said platform and said legs elevate said sound emanating surface of said game call from the body limb].

6. (amended) A hunting device according to Claim 1, wherein said body attachment assembly [is carried by said platform and] comprises:

- (a) an elongated flexible element having one end connected to said [platform] elevating device; and
- (b) an opposite free end on said flexible element provided with a hook[; and
- (c) a receiving formation on said platform, wherein said hook is selectively engagable and disengagable relative said receiving formation].

7. (amended) A hunting device according to Claim 6, [wherein said receiving formation includes a slot in said platform of the device] further comprising a receiving formation on said platform and wherein said hook is selectively engagable and disengagable with the receiving formation.

10. (amended) A hunting device for a hunter, the hunting device for producing sounds and comprising:

- (a) a one-piece game call with legs, the game call having a scratch surface and a sound emanating surface, the sound emanating surface having apertures through which sound in the game call can escape the game call, each leg extending from the sound emanating surface and terminating in a leg end; and

- (b) a body attachment assembly designed to releasably secure each leg end to a hunter;

the sound emanating surface [being] designed to be separated a distance from a hunter by the legs when said body attachment assembly is secured to a hunter, each leg end designed for supporting the hunting device on [in communication with the user] a hunter, [the legs] and for providing an unencumbered path for the sounds to escape the game call [and reach ambient].